

FILED BY *L* D.C.

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

ROBERT E. DI TROLIO  
CLERK, U.S. DIST. CT.  
W.D. OF TN, MEMPHIS

Michelle Armstrong Westbrook, as Administratrix  
of Florence A. Payne, deceased, and on behalf of  
the wrongful death beneficiaries of Florence A.  
Payne,

Plaintiff,

v.

Kindred Healthcare, Inc.; Kindred Healthcare  
Operating, Inc.; Kindred Nursing Centers Limited  
Partnership d/b/a Spring Gate Rehabilitation &  
Healthcare Center; and Renee B. Tutor, in her  
capacity as Administrator of Spring Gate  
Rehabilitation & Healthcare Center.

Defendants.

Case No. 2:05-cv-2118-B/p  
Jury Demanded

*GRANTING*  
~~PROPOSED ORDER REGARDING PLAINTIFF'S~~  
~~RESPONSE TO DEFENDANTS' MOTION TO DISMISS~~  
~~AND CROSS-MOTION TO STAY~~

This action came on hearing before the Court, Honorable J. Daniel Breen, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

It is Ordered and Adjudged:

Pursuant to 28 U.S.C. § 1447, Plaintiff timely filed a motion for remand of this action to state court. The motion to remand, as a preliminary challenge to the jurisdiction of this Court, must be considered prior to resolution of any pending motion requiring the exercise of subject matter jurisdiction. Thus, consideration of any other pending motion,

including Defendants' *Motion to Dismiss or in the Alternative for Summary Judgment*,  
will be stayed pending a decision on the motion to remand.

Dated at Memphis, Tennessee this 9<sup>th</sup> day of May, 2005.

  
\_\_\_\_\_  
JUDGE J. DANIEL BREEN



## Notice of Distribution

This notice confirms a copy of the document docketed as number 25 in case 2:05-CV-02118 was distributed by fax, mail, or direct printing on May 16, 2005 to the parties listed.

---

Jimmy Moore  
CIRCUIT COURT, 30TH JUDICIAL DISTRICT  
140 Adams Ave.  
Rm. 224  
Memphis, TN 38103

Deborah Whitt  
BAKER & WHITT PLLC  
6800 Poplar Ave.  
Ste. 205  
Memphis, TN 38138

Cameron C. Jehl  
WILKES & McHUGH- Little Rock  
425 West Capitol Ave.  
Ste. 3500  
Little Rock, AR 72201

F. Laurens Brock  
CHAMBLISS BAHNER & STOPHEL  
Two Union Square  
1000 Tallan Bldg.  
Chattanooga, TN 37402

Darrell E. Baker  
BAKER & WHITT PLLC  
6800 Poplar Ave.  
Ste. 205  
Memphis, TN 38138

Brian Reddick  
WILKES & MCHUGH, P.A.  
425 West Capitol Avenue  
Ste. 3500  
Little Rock, AR 72201

William Lee Maddux  
CHAMBLISS BAHNER & STOPHEL  
Two Union Square  
1000 Tallen Bldg.  
Chattanooga, TN 37402

Honorable J. Breen  
US DISTRICT COURT